IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

WP(C).No. 21916 of 2007(H)

PETITIONER:

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1. P.A.JOSEPH,
   PERIKILAKATTU HOUSE, PONKUNNAM P.O.,
   KOTTAYAM DISTRICT.

2. SALY JOSEPH,
   DO. DO.

3. MATHEWKUTTY ABRAHAM,
   PERIKILAKATTU HOUSE, MUZHOOR P.O.,
   KOTTAYAM DISTRICT.

BY ADV. DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR
SRI.M.R.JAYAPRASAD
SRI.K.K.RAJEEV

RESPONDENTS:

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1. KERALA KHADI AND VILLAGE INDUSTRIES
   BOARD, REPRESENTED BY ITS SECRETARY,
   THIRUVANANTHAPURAM-14.

2. THE DEPUTY TAHSILDAR (R.R.),
   KOTTAYAM.

3. PERIKILAKATTU INDUSTRIAL SOCIETY,
   REG.NO.K 348/84, ARUVIKUZHI P.O.,
   KOTTAYAM, REPRESENTED BY ITS SECRETARY.

R1 BY ADV. SRI.K.P.HARISH, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.21916 of 2007

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Dated this the 17th day of July, 2007.

JUDGMENT

Heard counsel for the petitioner and Standing Counsel for first respondent. The petitioners are proceeded against for recovery of arrears due from third respondent. The petitioners as directors have executed bond in favour of first respondent undertaking to repay the loan. If petitioners have executed personal guarantee, then they are personally liable and their property can be proceeded against. However, since petitioners have stated that 21 cents of land and building is available for the society which is the principal debtor, I feel on equitable grounds the property of the society should be first sold and thereafter if debt is not fully satisfied, recovery can be proceeded against the properties of those who have executed personal guarantee including petitioners. The W.P. is accordingly disposed of directing the second respondent to sell the land and building of the third respondent-society, the details of which will be furnished by petitioners immediately along with copy of this judgment. The said property should be sold within a period of two months from now. Recovery proceedings against the petitioners will be kept in abeyance for two months from now

and if arrears are recovered, recovery proceedings against the petitioners will be withdrawn. However, if arrears could not be recovered or if recovery is lesser than the debt amount, respondents 1 and 2 can proceed against the property of petitioners and other guarantors for recovering the balance arrears.

C.N.RAMACHANDRAN NAIR
Judge

pms